

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

In Re: PAWTUCKET WATER SUPPLY BOARD

DOCKET No. 3452

PAWTUCKET WATER SUPPLY BOARD'S OBJECTION
TO PETITION OF U.S. FILTER COMPANY
TO INTERVENE

Pawtucket Water Supply Board (PWSB) hereby files its Objection pursuant to Rule 17 of the Public Utilities Commission's (the Commission's) Rules of Practice and Procedure to the Petition to Intervene filed by U.S. Filter Company (U.S. Filter).

Rule 1.13 of the Commission's Rules of Practice and Procedure, entitled Intervention, limits the scope of who may intervene in a Commission docket. In this case, U.S. Filter does not claim a right conferred by statute but does contend that it has "a right to intervene or an interest of such nature that intervention is necessary or appropriate." In its petition, U.S. Filter appears to claim both that it has an interest which is directly affected and that its participation would be in the public interest.

PWSB strongly disagrees. The purpose of the above-captioned docket is to determine whether the PWSB treatment plant is currently inadequate, insufficient, or unsuited to the public need. PWSBA maintains that U.S. Filter has no standing to intervene in this docket. While it is true that U.S. Filter may be an interested party,

that interest does not rise to the level such that there would be a public interest to be served which would justify U.S. Filter's intervention.

What interest can U.S. Filter be expected to pursue? In its memorandum accompanying its Petition to Intervene, U.S. Filter has criticized the process which the PWSB undertook in attempting to select a new vendor. However, in Docket #3378, the Commission has already expressed its approval of the process undertaken by PWSB. Allowing a disappointed vendor to intervene threatens to turn this process into a circus. Indeed, it can be stated confidently that U.S. Filter lacks standing to represent any interest but its own in this docket.

It is without question that U.S. Filter has been embroiled in a lengthy and unfortunately dispute regarding the selection of a vendor to build and operate the proposed new Pawtucket Water Plant. In its filing, U.S. Filter has maintained that the Pawtucket City Council "approved" U.S. Filter, without relating that that approval was later ruled invalid by the Superior Court of the State of Rhode Island—a ruling which was not appealed.

The PWSB also maintains that the interests of Pawtucket rate payers will be adequately addressed by the PWSB, the advocacy section of the Attorney General's Office, and the Pawtucket City Council, should it choose to intervene in this filing. The issues in this docket relate to the current condition of the plant and really have

nothing to do with who the appropriate vendor should be. Should the Commission allow U.S. Filter to intervene in this docket, it is beyond doubt that U.S. Filter will request that either the PUC award it the bid to operate the plant or make a ruling that the plan which it presented to the PWSB was so superior that its higher costs should be discounted. That is not the purpose of this docket. As the Commission knows and has noted in its prior report and order on Docket #3378, the settlement provided that PWSB has chosen a DBO procurement method for their water treatment facility. As part of the settlement, the parties agreed that the DBO method in general is an appropriate process and that the proposed capital improvement projects are reasonable.

In summary, it is the position of the PWSB that the public interest and the interest of all of the parties having standing in this docket are adequately protected without the intervention of U.S. Filter and that further, U.S. Filter's intervention is intended to protect its own interests and its own interests alone. For those reasons, the PWSB respectfully requests that the Commission deny the Petition filed by U.S. Filter to intervene in this docket.

Respectfully submitted,
PAWTUCKET WATER SUPPLY BOARD
By Its Attorneys,
FLAHERTY, ORTON & FLAHERTY

By _____
Francis X. Flaherty #1638
20 Centerville Road
Warwick, RI 02886
(401) 737-8700
Fax: 737-0735

CERTIFICATE OF SERVICE

I hereby certify that, in accordance with the Rules of the Public Utilities Commission, a true copy of the within Objection was mailed by regular mail, postage prepaid, to the attached service list this _____ day of _____, 2003.
